IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 967 of 2005 (S/S)

Smt. Bhuvneshwari Negi
W/o Sri Virendra Singh Negi
Presently working as Assistant Teacher (General)
G.G.I.C. New Tehri
District Tehri Garhwal … Petitioner

Versus

1. State of Uttaranchal through
   Principal Secretary Education Department
   Uttaranchal Dehradun.
2. Additional Director of Education
   Garhwal Mandal
   District Pauri Garhwal
3. District Inspector of Schools
   Tehri Garhwal
4. Smt. Rama Ramola
   W/o no known to the petitioner
   Assistant Teacher (General)
   G.G.I.C. New Tehri
   District Tehri Garhwal … Respondents

Shir V.B.S. Negi, learned counsel for the petitioner
Sri Paresh Tripathi, learned standing counsel for the State.

Hon'ble B.C. Kandpal, J

By means of this writ petition a relief has been sough in the nature of certiorari the impugned order dated 29.06.2005 (annexure No. 1 to the petition) passed by the respondent No. 3 i.e. District Inspector of Schools, District Tehri Garhwal.

Brief facts giving rise to this petition are that the petitioner is presently posted at New Tehri. Now, the petitioner has been transferred from G.G.I.C., New Tehri to Government Girls Higher Secondary School, Lambgaon vide impugned transfer/amendment order dated 29.06.2005 passed by respondent No. 3 i.e. District Inspector of Schools, District Tehri Garhwal.

Feeling aggrieved by the aforesaid transfer order, the petitioner has preferred this writ petition before this Court.

Heard learned counsel for the petitioner as well as learned standing counsel for the State and perused the record.

Learned counsel for the petitioner has submitted that the petitioner in her representation which he has been filed before respondent No. 3 stated that there are posts lying vacant at nearby schools at Kankhari (Bhatwari) and Aleth (Bhatwari), but it has been ignored by the respondent No. 3, while transferring the petitioner.

Learned counsel for the petitioner has also drawn my attention towards Government Order No. 718/XXIV(2)/2005 dated 13.05.2005 which envisages the Rules and policies for Transfer of Teacher relating to Basic and Secondary Education wherein it has been stated that:-

> "(v) LFkkukUrj.k dsoy bl gsrq vf/kdr vf/kdkjh }kjk gh fd, tk;sxsA
> ¼c½ ;fn vifjgk;Z dkj.kksa ls LFkkukUrj.k l'kks/ku vkns'k fuxZr djus dh vko';drk iMrh gS] rks ,sls vkns'k fu/kkfjr le;&lhek ds vUnj tuinh; dkVj ds ekeyksa esa e.Myh; vij f'k{kk fun'kd rFkk vUrj.e.Myh; ekeyksa esa f'k{kk fun'kd }kjk tkjh fd, tk,sxs rFkk fun'kkZy; Lrj ls fd, x;s LFkkukUrj.k vkns'kksa dk l'kks/ku 'kklu Lrj ij fd;k tk,xkA"

It has further been submitted that the policy which has been formulated vide Government Order dated 13.05.2005 has not been considered by the respondent in passing the impugned transfer/amendment order dated 29.06.2005 as District Education Officer has no power to issue the impugned order (annexure 1 to the writ petition).

Accordingly, the petitioner is directed to move a representation before the respondent No. 2 with entire material along with certified copy of the judgment passed by this Court within a period of 10 days. The respondents No. 2 shall thereafter decide the representation of the petitioner within 15 days passing the speaking and reasoned order and in the light of Government Order dated 13.05.2005 which has been mentioned in the body of the judgment.

If the petitioner has not been relieved, that order dated 29.06.2005 passed by the respondent No. 3, shall not be given effect to till the disposal of the representation.

With the aforesaid observation, the writ petition is finally disposed of.

A copy of the order be supplied to the petitioner today on the payment of usual charges.

(B.C. Kandpal, J.)

16.07.2005
ASWAL